IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL NO. 823 OF 1983

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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VALABHAI PUNABHAI CHARAN - Appellant(s)
Versus
NIRANJAN JETHANAND SHARMA & ANR. - Respondent(s)

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Appearance :
Shri D.F. Amin for Appellant(s).
None for Respondent(s) : 1.
Ms. Maya Desai for Respondent(s) : 2.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 03/05/2007

ORAL JUDGMENT

Being aggrieved by the judgement and award dated 12th October, 1981 passed by the learned Member, Special Motor Accident

Claims Tribunal, Panchmahals, Godhra, in M.A.C.P. No.331 of 1981, the appellant-owner of the she-buffalo has come to this Court, seeking enhancement in the claim amount.

2. As the respondents, driver and the owner of the bus, have not filed any appeal, it is not necessary for me to enter into the question of rashness, negligence, etc.; I will proceed on the ground that the vehicle was driven rashly and negligently and as a result of the accident, the she-buffalo belonging to the appellant-claimant suffered various injuries.

3. The learned Tribunal, after recording the evidence, has awarded a sum of Rs.1,400/- by way of compensation in view of the medical condition of the she-buffalo. From the records, it would appear that after suffering the injuries in the accident, the she-buffalo was examined by the Veterinary Officer on 2nd January, 1981 and it was found that the right horn was fractured, it was further found that there was a fracture on the right as well as left ilium bone leading to the condition where a cattle cannot carry any weight. The she-buffalo was again examined on 12th August, 1981 and the medical certificate issued by the Veterinary Officer (Exh.21) proved that the she-buffalo was unable to walk properly and there were noticeable deformities in the pelvic girdle. The Veterinary Officer was of the opinion that the claimant's buffalo, having suffered deformities in pelvic girdle, could lead to complications in reproduction. The Court below observed that the she-buffalo had become useless and could not yield any milk in future.

4. From the records, it would appear that the she-buffalo before the accident was providing some milk, which could be used by the claimant and could also be sold in the open market. The claimant has

also submitted that he was required to look after the she-buffalo and spend something for its maintenance. Though the she-buffalo had become absolutely useless, the Court below has not made any award under these two heads, but, has simply awarded a sum of Rs.1,400/- towards the value of the cattle. In the opinion of this Court, the Court below was not justified in not making the award in relation to the loss of earning between 1st January, 1981 till 12th day of October, 1981, i.e. date of the judgement of the Court below. Under the said head, in the opinion of this Court, the appellant would be entitled to a sum of Rs.1,000/- while under the head of maintenance of the she-buffalo, the appellant must also get a sum of Rs.1,000/-. In addition to what has already been awarded by the lower Court, the claimant would be entitled to a further sum of Rs.2,000/- with interest at the rate of 9% per annum from the date of the claim petition till the recovery from the respondents.

5. The appeal to the extent indicated above is allowed. No costs.

[R.S.Garg, J.]

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